

REMARKS

Claims 49-51, 53-55 and 59-62 will be pending after entry of this amendment, with claim 49 presently amended. Claim 49 has been amended to incorporate the majority of the subject matter from claim 52, which has been cancelled. Claims 60-62 have been added to capture subject matter related to force sensors. Support for these claims may be found throughout the application, at page 15, lines 1-17 and at page 7, lines 9-10. No new matter is included in any of the amendments.

Applicants thank the Examiner for the many courtesies extended to the applicants and their representative during several personal and telephonic interviews. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants reserve the right to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

Rejection of claims 49-55 and 59 under 35 U.S.C. §102(e)

The Examiner rejected claims 49-55 and 59 under 35 U.S.C. §102(e) as anticipated by U.S. Patent Nos. 6,602,714 to Tagge, 6,438,497 to Mansky, 6,393,895 to Matsiev, or 6,182,499 to McFarland. Those rejections are traversed in view of the amendments to the claims.

In particular, none of the references disclose measuring the physical properties listed in the amended claim 49. With regard to new claim 60, the delineation of the sensor as a force sensor clarifies that not just any sensor may be used to monitor the response of the materials to the mechanical perturbations. The probes utilized in the references emit waves caused by vibrations or oscillations of the probes. The materials merely serve as the medium through which the waves generated by the probes travel. The sensors then respond to changes in the waves caused by their travel through the medium of the material. In this regard, the materials do not exert a force that the sensors detect; rather the materials conduct waves to the sensor. Thus, the sensors of the references should be considered wave sensors instead of force sensors. In addition, with respect to claim 61, none of the sensors of the references is responsive to a tensile or compressive load, as is delineated in the claim. For at least these reasons, the present claims are not anticipated by the cited references.

Information Disclosure Statement

An Information Disclosure Statement is being filed on the date even herewith. Specifically, applicants are citing a reference cited by the Japanese Patent Office in a related application. Consideration of the pending claims is respectfully requested.

CONCLUSIONS

In view of Applicants' amendments and remarks, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

Applicants believe that a one month extension is due at this time. Please charge the extension fee to Deposit Account No. 50-0496. If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-0496 for any fee which may be due.

Date: 12/15/04

Christopher J. Voci

Christopher J. Voci
Registration No. 45,184
Dobrusin & Thennisch PC
29 W. Lawrence St., Suite 210
Pontiac, MI 48342
cvoi@patentco.com
Customer No. 25,215